

UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner: E. A. Ojini

Art Unit: 3723

In re:

Applicant: Sven KAGELER

Serial No.: 101550,714

Filed: October 11, 2005

SIMULTANEOUS AMENDMENT

September 14, 2007

Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is submitted simultaneously with filing of a
Request for Continuing Examination.

In the final Office Action of April 25, 2007 the Examiner rejected claims 12, 27-29 under 35 U.S.C. 102(e) over the U.S. patent to Kageler.

Claims 12-26 were rejected under 35 U.S.C. 102(b) over the patent to Bhagwat.

In the Advisory Action of July 03, 2007, the Examiner confirmed the rejections.

In connection with the Examiner's rejection under 35 U.S.C. 102(e) over the patent to Kageler, applicants submit herewith a Declaration confirming that the inventors are applicants of the pending application serial no. 10/550,714 and they are the inventors of the subject matter, and that any invention disclosed but not claimed in the reference was derived from the inventors of this application and thus was not the invention "by another".

It is therefore believed that this rejection is no longer tenable and should be withdrawn.

The Examiner further rejected the claims under 35 U.S.C. 102(b) over the patent to Bhagwat.

Before the analysis of this reference, it is believed to be advisable to emphasize the new features of the present invention as defined in claim 12, the broadest claim on file.

Claim 12 defines a cordless screwdriver 10 with a charging cradle assembly 22, comprising the following elements:

the cordless screwdriver 10 including a housing 12, 18,

a handle 14,

charging contact tabs 37,

and an output spindle 20;

and the rechargeable battery having charging contacts 23,

the cordless screwdriver and the rechargeable battery being configured so that the cordless screwdriver as a whole being placeable onto the charging cradle 22 which automatically initiates a charging mode

and in the charging mode being positioned on the charging cradle 22 so that the housing 12, 18 of the cordless screwdriver is inclined relative to a horizontal plane and an end of said output spindle 20 points downwards.

In accordance with the present invention as defined in claim 12, the cordless screwdriver as a whole is placeable on the charging cradle 22 which automatically initiates a charging mode, and in the charging mode it is positioned on the charging cradle 22 so that the housing 12, 18 of the cordless screwdriver

is inclined relative to a horizontal plane and an end of the output spindle 20 points downwards.

In connection with the Examiner's rejection of the claims over the patent to Bhagwat, applicants have to respectfully disagree with the grounds for this rejection since this rejection in their opinion is not justified.

The patent to Bhagwat does not disclose a cordless screwdriver with a charging cradle assembly and no charging cradle is disclosed in the patent to Bhagwat. The patent to Bhagwat discloses a dual mode system for operating electrically power device, comprising a cordless battery pack and a corded voltage converter. The Examiner in his Office Action referred to reference numeral 40 in Figure 3.

The Examiner's attention is specifically directed to the specification and its portion which describes reference numeral 40. In column 6, lines 37-38 of the Bhagwat patent it is stated that reference numeral 40 is a second section 40 of a battery-pack container 25. The battery pack container 25 is inserted into the electrically powered device as shown in Figures 2 and 3.

Thus, it is believed to be clear that the patent to Bhagwat does not disclose a charger or a charging cradle. Therefore, it also definitely does not disclose a cordless screwdriver which is placeable as a whole onto the charging

cradle that automatically initiates a charging mode. The patent to Bhagwat also does not show that the cordless screwdriver is positioned on the charging cradle so that the housing of the cordless screwdriver is inclined relative to a horizontal plane and an end of the output spindle points downwards in the charging mode.

In view of the above presented remarks and explanations, it is believed to be clear that the new features of the present invention as defined in claim 12 are not disclosed in the patent to Bhagwat.

In connection with this, it is believed to be advisable to cite the decision in *re Lindenman Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

The patent to Bhagwat definitely does not disclose each and every element of the present invention which is now defined in claim 12, and therefore the anticipation rejection based on this reference should be considered as not tenable with respect to this claim and should be withdrawn.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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